UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/690,007	10/17/2000	Harry W. Morris	06975-058001 / Ad Serving	1832

26171 7590 06/17/2005		EXAMINER
FISH & RICHARDSON P.C.		PHAN, TAM T
P.O. BOX 1022	ART UNIT	PAPER NUMBER
MINNEAPOLIS, MN 55440-1022	2144	

DATE MAILED: 06/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

<table>
<tr><td rowspan="2">Office Action Summary</td><td>Application No.</td><td>Applicant(s)</td></tr>
<tr><td>09/690,007</td><td>MORRIS ET AL.</td></tr>
<tr><td></td><td>Examiner</td><td>Art Unit</td><td></td></tr>
<tr><td></td><td>Tam (Jenny) Phan</td><td>2144</td><td></td></tr>
</table>

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _10 May 2005_.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-28,55-57 and 64-70_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _1-28,55-57 and 64-70_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on _17 November 2000_ is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date _____.

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

DETAILED ACTION

1.   A request for continued examination under 37 CFR 1.114, including the fee set

forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this

application is eligible for continued examination under 37 CFR 1.114, and the fee set

forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action

has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on

05/10/05 has been entered. Claims 1-7, 15-21, and 55 are currently amended. Claims

29-54 and 58-63 are cancelled.

2.   Claims 1-28, 55-57, and 64-70 remain pending.

Priority

3.   This application claims benefit of the provisional application 60/195991

(04/07/2000):

4.   The effective filing date for the subject matter defined in the pending claims,

which has support in parent 60/195991 in this application, is 04/07/2000. Any new

subject mater defined in the claims not previously disclosed in parent 60/195991, is

entitled to the effective filing date of 10/17/2000.

Drawings

5.   This application has been filed with informal drawings, which are acceptable for

examination purposes only. Formal drawings will be required when the application is

allowed.

Claim Rejections - 35 USC § 103

6.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7.   Claims 1-28, 55-57, and 64-70 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Blumenau (U.S. Patent Number 6,108,637) in view of Guyot et al.

(U.S. Patent Number 6,119,098), hereinafter referred to as Guyot, further in view of

Owensby (U.S. Patent Number 6,647,257).

8.   Regarding claim 1, Blumenau disclosed a method of presenting advertising to

viewers in a computer network environment, the method comprising: monitoring a

viewer's interactions with an associated computer system; and determining an amount

of time to be used in later displaying advertisements on the viewer's associated

computer system based on the viewer's monitored interactions (Title, Abstract, column

7 lines 58-65, column 13 lines 51-58, column 14 lines 7-19).

9.   Blumenau taught the invention substantially as claimed, however, Blumenau did

not expressly teach a method based on the determined amount of time, varying an

amount of display time for which a later displayed advertisement is to be displayed on

the viewer's associated computer system.

10.   Blumenau suggested exploration of art and/or provided a reason to modify the

method of presenting advertisement to include additional features such as varying an

amount of display time for which a later displayed advertisement is to be displayed on

the viewer's associated computer system based upon review and analysis of monitoring

information (column 18 lines 38-56, column 19 lines 2-11, column 20 lines 23-36).

11.   Guyot disclosed a method for targeting and distributing advertisement having steps of monitoring the viewer's interaction on the viewer's associated computer and based on the determined interaction information, schedule the display timing of advertisements on the viewer's computer for the later advertisement to be displayed (Title, column 2 lines 9-20, column 5 lines 6-18).

12.   It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the advertisement method of Blumenau with the teachings of Guyot to include a step of adjusting timing in order to effectively present the advertisement to users (column 7 lines 19-47) since when the user is performing other activities on the computer, the probability of viewing an advertisement is relatively low (Guyot, column 1 lines 34-43).

13.   The combination of Blumenau and Guyot taught the invention substantially as claimed. However, the combination of Blumenau and Guyot did not expressly varying an amount of display time (duration or length of advertisement display time).

14.   Owensby disclosed a method for providing advertisements to viewer's associated system based on demographic and personal preferences, responses made to the advertisement previously provided to the viewer, or the historical interaction or movement patents of the viewer having step of varying the length/duration of the later advertisement based on the determined interaction information (Abstract, column 19 lines 37-54).

15.   It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the advertisement method of combined method of Blumenau and Guyot with the teachings of Owensby to include a step of varying the

length/duration of the later advertisement based on viewer's interaction in order to effectively present the advertisement to viewers (Blumenau, column 7 lines 19-47) while allowing for fair subsidy charges incurred by the advertiser sponsors since the longer the length of display time, the higher the cost (Owensby, column 19 lines 37-39).

16.   Regarding claim 2, Guyot disclosed a method further comprising adjusting an ad expiration tuning parameter configured to set the quantity of time for which an advertisement is available for display (column 2 lines 9-13, column 4 lines 34-43, column 7 lines 1-6).

17.   Regarding claim 3, Guyot disclosed a method wherein further comprising adjusting a maximum display count configured to set a maximum number of times an advertisement may be displayed to a user viewing a batch of ads (column 2 lines 9-13, column 4 lines 34-43, column 7 lines 1-6).

18.   Regarding claim 4, Guyot and Owensby combined disclose a method wherein varying the amount of display time for which the later displayed advertisement is displayed comprises adjusting a minimum display time configured to set a minimum amount of time that the later displayed advertisement may be displayed before another advertisement is displayed (Guyot, column 2 lines 9-13, column 4 lines 34-67; Owensby, Abstract, column 19 lines 37-54).

19.   Regarding claim 5, Guyot disclosed a method wherein further comprising adjusting an idle delay configured to cause a delay from the time a user has gone idle before a first advertisement is replaced with another advertisement (column 5 lines 6-17, column 7 lines 49-56).

20.   Regarding claim 6, Guyot disclosed a method wherein further comprising

adjusting an active delay configured to cause a delay from the time a user goes active

before displaying another advertisement (column 5 lines 6- 17, column 7 lines 49-56).

21.   Regarding claim 7, Guyot disclosed a method wherein further comprising

adjusting an idle (no spin) parameter configured to stop the display of a first

advertisement from being replaced with the display of another advertisement after a

user goes idle (column 5 lines 6- 17, column 7 lines 49-67).

22.   Regarding claim 8, Guyot disclosed a method wherein monitoring a viewer's

interactions with an associated computer system comprises monitoring a use of a

computer mouse (Abstract, column 2 lines 9-21, column 5 lines 6-18).

23.   Regarding claim 9, Guyot disclosed a method wherein monitoring a viewer's

interactions with an associated computer system comprises monitoring a use of a

computer keyboard (Abstract, column 2 lines 9-21, column 5 lines 6-18).

24.   Regarding claim 10, Guyot disclosed a method wherein monitoring a viewer's

interactions with an associated computer system comprises monitoring the activity of

any input devices connected to the subscriber system [an auditory signal such as the

viewer's voice provided through a microphone] (column 7 lines 63-67, column 8 lines 1-

1-4).

25.   Regarding claim 11, Guyot disclosed a method wherein the auditory signal is the

viewer's voice (column 7 lines 63-67, column 8 lines 1-1-4).

26.   Regarding claim 12, Guyot disclosed a method wherein monitoring a viewer's

interactions with an associated computer system comprises monitoring a maximization

and a minimization status of a screen displaying advertising (column 2 lines 19-13,
column 5 lines 6-11, lines 45-61).

27.   Regarding claim 13, Blumenau disclosed a method wherein monitoring a viewer's
interactions with an associated computer system comprises monitoring a viewer's use of
a device that sends an input, or causes an input to be sent, to the associated computer
system (column 17 lines 24-35).

28.   Regarding claim 14, Guyot disclosed a method wherein the timing of displayed
advertisements on a screen displaying advertising is configured to not switch between
advertisements if the screen displaying advertisements is minimized or occluded
(column 5 lines 6-11, lines 45-61, column 12 lines 46-56).

29.   Regarding claim 64, Blumenau disclosed a method wherein monitoring wherein
monitoring the viewer's interactions with the associated computer system includes
continually monitoring the viewer's interactions with the associated computer program
(column 10 line 65-column 14, column 11 lines 18-29, column 16 lines 13-24).

30.   Regarding claim 65, Blumenau disclosed a method wherein monitoring the
viewer's interactions with the associated computer system includes monitoring the
viewer's interactions with the associated computer system that are unrelated to a
manual adjustment of the timing of the displayed advertisements (column 17 lines 24-
35, column 18 lines 38-49, column 20 lines 23-36).

31.   Regarding claim 66, Guyot disclosed a method wherein adjusting the timing of
the later displayed advertisements includes varying lengths of time during which the
advertisements are displayed on an advertisements -by- advertisements basis (Title,
column 2 lines 9-20, column 5 lines 6-18).

32.   Regarding claims 15-28 and 67-69, the computer program stored on a computer-

readable medium corresponds directly to the method of claim 1-14 and 64-66, and thus

these claims are rejected using the same rationale.

33.   Regarding claim 55, Blumenau, Guyot, and Owensby disclosed a method of

optimizing a click-through rate of a user viewing content in a computer network

environment, the method comprising: downloading advertisements and a set of tuning

parameters to a user's computer, wherein the set of tuning parameters are configured to

cause a display of a first advertisement on the user's computer to be changed to a

display of another advertisement on the user's computer by varying an amount of

display time for which the later displayed advertisement is to be used based on a user's

activity with respect to the user's computer (Guyot, Figure 6B, column 4 lines 34-67,

column 7 lines 49-57, column 13 lines 14-35; Blumenau, column 7 lines 58-65, column

13 lines 51-58, column 14 lines 7-19; Owensby, Abstract, column 19 lines 37-54);

storing click-through information for the advertisements (Guyot, column 3 lines 55-65,

column 4 lines 16-23); and sending the click-through information to a host computer

(Guyot, column 4 lines 16-23, column 6 lines 51-63).

34.   Regarding claim 56, Blumenau disclosed a method further comprising varying

the tuning parameters downloaded to the user's computer; and utilizing a correlation

technique to determine a correlation between the tuning parameters downloaded to the

user's computer and the click-through rate of the user (column 14 lines 7-19, column 16

lines 13-38, column 17 lines 24-35, column 18 lines 38-56).

35.   Regarding claim 57, Blumenau disclosed a method further comprising setting

another set of tuning parameters based on the correlation between the tuning

parameters and the user's click-through rate (column 16 lines 13-38, column 17 lines 24-35, column 18 lines 38-56).

36.   Regarding clam 70, Guyot disclosed a method wherein the tuning parameters are configured to vary lengths of time during which the advertisements are displayed on an advertisement-by-advertisement basis (Title, column 2 lines 9-20, column 5 lines 6-18).

37.   Since all the limitations of the claimed invention were disclosed by the combination of Blumenau, Guyot, and Owensby, claims 1-28, 55-57, and 64-70 are rejected.

Response to Arguments

38.   Applicants' arguments with respect to the pending claims have been considered but are moot in view of the new ground(s) of rejection.

39.   As the rejection reads, Examiner asserts that the combination of these teachings render the claimed invention obvious.

Conclusion
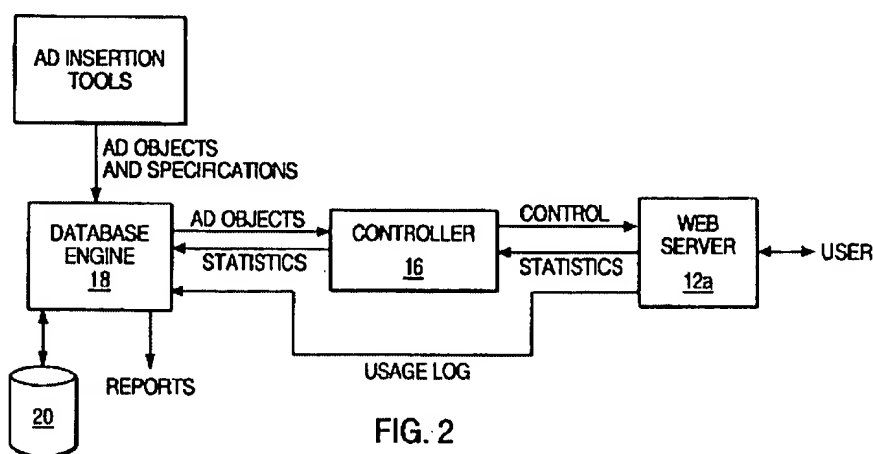
40.   The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Refer to the enclosed PTO-892 for details.

   a.   Cesar (U.S. Patent Number 6,128,651) titled "Internet advertising with controlled and timed display of ad content from centralized system controller" disclosed an ad display is lodged in a website to cause browsers hitting the website to undertake centrally controlled and recorded ad display for guaranteed minimum timed intervals. The system enables precise controlled advertising to each web page viewing browser and accurate advertising budgeting and programming which can be monitored and upgraded to meet marketing needs. A

database is used for general system operation. This general system operation can include alteration of the number of times that ad content is displayed, the classification of ad content, the time of day of display of ad content and virtually any desired parameter which an advertiser would prefer to control.

b.   Hoyle (U.S. Patent Number 6,771,290) titled "Computer interface method and apparatus with portable network organization system and targeted advertising" disclosed A method and apparatus for providing an automatically upgradeable software application includes targeted advertising based upon demographics and user interaction with the computer. The software application includes a display region used for banner advertising that is downloaded over a network such as the Internet. The software application is accessible from a server via the network and demographic information on the user is acquired by the server and used for determining what advertising will be sent to the user. The software application further targets the advertisements in response to normal user interaction with the computer. Data associated with each advertisement is used by the software application in determining when a particular advertisement is to be displayed. Currently, available computer programs that incorporate advertising into their user interface include the necessary programming built into the software itself. That is, the various parameters relating to the presentation of the advertisement is pre-determined and programmed into the software. These parameters may include such things as where on the screen the advertisement is displayed, the display size, the duration of display, the number of times a particular advertisement is displayed, the conditions under which a particular advertisement is to be displayed, the type of action taken upon a user clicking on the advertisement, and so forth. One problem with these currently available programs is that these parameters can only be changed by replacement of the entire program with an updated, revised version, making it difficult to respond to desired changes in advertising approaches.

c.   Alberts (Patent Number 5,937,392) titled "Banner advertising display system and method with frequency of advertisement control" disclosed An

Internet advertising system has a database, a controller, and an ad server
operating as part of a web server. The database has advertising campaign
information, including identification information and frequency information for how
often the ad is to be served. The ad server uses the campaign information from
the database to control the relative ratios of serving ads, the distribution of ads
throughout the day, and any triggering mechanisms for controlling what ads are
served.

FIG. 2

FIG. 3

Any inquiry concerning this communication or earlier communications from the
examiner should be directed to Tam (Jenny) Phan whose telephone number is (571)
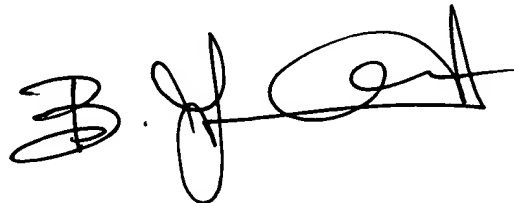272-3930. The examiner can normally be reached on M-F 9:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, David A. Wiley can be reached on (571) 272-3923. The fax phone number

for the organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this application or

proceeding should be directed to the receptionist whose telephone number is (703) 305-

3900.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

David Wiley
SPE
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tp
June 7, 2005

BUNJOB JAROENCHONWANIT
PRIMARY EXAMINER